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WATER RIGHTS
SALT LAKE

Robert L. Morgan, P.E.
Utah State Engineer
Utah Division of Water Rights
1636 West North Temple, #200
Salt Lake City, Utah 84116-3156

Re: Diligence Claim Nos. D6245 (09-1818) and
D6246 (09-1819) Filed by Blue Mountain
Irrigation Company

Dear Mr. Morgan:

The undersigned water users wish to bring to your attention a situation that has the potential for creating a serious and costly controversy among all water users with rights in Montezuma Creek. On November 30, 1992, Blue Mountain Irrigation Company filed the above-identified two Diligence Claims, with the objective of asserting additional water rights in excess of the rights confirmed in prior decrees. The undersigned water users all have rights in Montezuma Creek, either through the ownership of decreed water rights, rights acquired by application to appropriate, or as stockholders in a mutual irrigation company having rights in Montezuma Creek, and hereby protest the filing of the Diligence Claims.

The Diligence Claims, on their face, reflect an attempt by Blue Mountain Irrigation Company to enlarge upon the rights previously adjudicated under decrees of the Seventh District Court. We understand that copies of these decrees are on file with Mr. Mark Page, Area Engineer for the Price office. The first decree, entered in the Seventh District Court on June 15, 1918, is known as the "Sheley Decree". The Sheley Decree adjudicated the rights in Montezuma Creek and Blue Mountain Irrigation Company was a named plaintiff to that action. In 1947, Blue Mountain Irrigation Company brought another action in the District Court to specifically quiet title to its claims to rights to divert water from South Fork and North Fork of Montezuma Creek during the irrigation season prior to May 1 of each year. On September 14, 1948, the District Court entered its Decree. It was not appealed.

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The undersigned water users are mindful that diligence claims may be filed under certain circumstances pursuant to U.C.A. § 73-5-13 to make a matter of public record claims to the use of water from a particular source that has not been adjudicated, and that if properly filed such claims shall be prima facie evidence of the claimed right or rights described therein. However, that statute simply does not apply here because the rights being claimed have been adjudicated and re-adjudicated.

Pursuant to the State Engineer's duty under U.C.A. § 73-5-3 to administer the waters of Utah in a manner consistent with all prior judgments of the District Court, the undersigned water users hereby request that the State Engineer take appropriate action to prohibit the delivery of water to Blue Mountain Irrigation Company under the subject Diligence Claims.

SAN JUAN COUNTY WATER
CONSERVANCY DISTRICT

PIONEER IRRIGATION COMPANY

By Norman Nielsen
Its:

By E. J. Sonderegger Sec.
Its:

HALLS RANCHES

CITY OF MONTICELLO

By May Z. Halls
Its: Owner

By James J. Major
Its:

cc: Mark Page